

CONRAIL



RECORDATION NO. 8804 B Filed & Recorded

122A052 1977-10 40 AM

Date MAY 8 1977 INTERSTATE COMMERCE COMMISSION

FEE OF \$1.00

May 2, 1977

Fee \$ 1.50 ICS Washington, D. C.

RECORDATION NO. 8804 A Filed & Recorded

MAY 2 1977-10 40 AM

Robert L. Oswald, Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

RECORDATION NO. 8804 C Filed & Recorded  
MAY 2 1977-10 40 AM  
INTERSTATE COMMERCE COMMISSION

Dear Mr. Oswald:

INTERSTATE COMMERCE COMMISSION

Pursuant to Section 20c of the Interstate Commerce Act and as provided by Volume 29 Code of Federal Regulations Sections 1116.1 through 1116.4, we present the following documents, all dated as of April 15, 1977, for recordation:

A) Interim Conditional Sale Agreement between General Electric Company and United States Trust Company, as Trustee, and

RECORDATION NO. 8804 Filed & Recorded

MAY 2 1977-10 40 AM

INTERSTATE COMMERCE COMMISSION

Interim Agreement and Assignment between General Electric Company and J. P. Morgan Interfunding Corp.;

B) Interim Conditional Sale Agreement between General Motors Corporation and United States Trust Company, as Trustee, and

RECORDATION NO. 8804 D Filed & Recorded

MAY 2 1977-10 40 AM

INTERSTATE COMMERCE COMMISSION

Interim Agreement and Assignment between General Motors Corporation and J. P. Morgan Interfunding Corp.;

C) Interim Lease of Railroad Equipment between Consolidated Rail Corporation and United States Trust Company, as Trustee, and

RECORDATION NO. 8804 E Filed & Recorded

MAY 2 1977-10 40 AM

INTERSTATE COMMERCE COMMISSION

Interim Assignment of Lease and Agreement between United States Trust Company, as Trustee, and J. P. Morgan Interfunding Corp.

The names and addresses of the parties to the documents are:

With respect to the documents described under A):

Vendor and Assignor General Electric Company  
2901 East Lake Road  
Erie, Pennsylvania 16531

*[Handwritten signatures and initials]*

Three of our checks, in the amount of \$50.00 each, are enclosed to cover the recordation fees.

These documents have not been previously recorded with the Interstate Commerce Commission.

After retaining two counterpart originals of the documents please return the remaining copies, stamped with your recordation number, to Consolidated Rail Corporation, Room 1138, Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, in the custody of the individual presenting them for recordation.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'B. D. Wellmon', followed by a long horizontal flourish.

B. D. Wellmon  
Assistant Treasurer

RECORDATION NO. 8804-<sup>E</sup> Filed & Recorded

MAY 2 1977-10 40 AM

INTERSTATE COMMERCE COMMISSION

INTERIM ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 15, 1977 ("Assignment"), by and between UNITED STATES TRUST COMPANY OF NEW YORK, a New York trust company, acting as Trustee (the "Lessor" or the "Vendee") under a Trust Agreement dated as of the date hereof with J. P. Morgan Interfunding Corp. (the "Beneficiary"), and J. P. MORGAN INTERFUNDING CORP., a Delaware corporation (the "Vendor").

WHEREAS, the Vendee is entering into two Interim Conditional Sale Agreements dated as of the date hereof (the "Security Documentation") with General Electric Company, a New York corporation, and General Motors Corporation (Electro-Motive Division), a Delaware corporation (collectively, the "Builders"), providing for the conditional sale to the Vendee of such units of railroad equipment (collectively, the "Units") described in each Annex B thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS, the Lessor and Consolidated Rail Corporation (the "Lessee") are entering into an Interim Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as defined in the Security Documentation), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor; and

WHEREAS, the Builders are willing to guarantee certain obligations of the Lessee under the Lease and of the Vendee under the Security Documentation pursuant to two Interim Guaranty Agreements (collectively, the "Guaranty Agreements") dated the date hereof;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, and intending to be legally bound, the parties hereto agree as follows:

1. Assignment for Security. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Documentation, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments first, to satisfy the obligations of the Lessor under the Security Documentation, and second, to satisfy the obligations of the Vendee under the Guaranty Agreements, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Documentation.

2. No Liability of Vendors. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. Certain Covenants of Lessor. The Lessor will faithfully faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee thereunder, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. Power of Attorney to Vendor. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Termination of Vendor's Estate. Upon the full discharge and satisfaction of all sums due from the Lessor under the Security Documentation, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. Lessee to Discharge Certain Liens, Etc.

The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than those created by the Security Documentation) created by the Lessor, or its successors and assigns (other than the Vendor) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party not arising out of the transactions contemplated by the Security Documentation or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

7. Lessor to Execute Instruments of Further Assurance; Limits on Assignment. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure the interest of the Vendor hereunder.

The Lessor will not assign its interests in and to the Lease or the Units without the prior written consent of the Vendor; provided, however, that the Lessor may so assign its interests without such consent to (i) any bank or trust company incorporated under the National Bank Act or the laws of any state of the United States or (ii) any member of a group filing consolidated Federal tax returns that includes the Lessor, if, in each such case, such assignee assumes, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment and, in the case of an assignee described in clause (ii), the Lessor guarantees, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment.

8. Vendor May Assign. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

9. Governing Law. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

10. Notices. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Documentation, or at such other address as the Vendor shall designate.

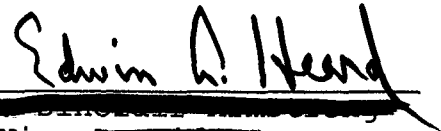
11. Forebearance By Vendor. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment and which are for the sole benefit of the Lessor, without the prior consent of the Lessor.

12. No Recourse to Vendee. It is expressly understood and agreed by and between the parties hereto, anything in this Agreement to the contrary notwithstanding, that each and all of the representations, undertakings and agreements in this Agreement made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Beneficiary or on account of any representation, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for the satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, all as of the date first above written.

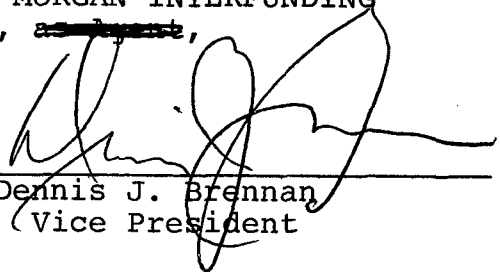
UNITED STATES TRUST COMPANY  
OF NEW YORK, as Trustee,

by

  
~~Edwin A. Heard~~  
Vice ~~President~~  
Chairman

J. P. MORGAN INTERFUNDING  
CORP., ~~as agent~~,

by

  
Dennis J. Brennan  
(Vice President)



STATE OF NEW YORK,     )  
                                  ) ss.:  
COUNTY OF NEW YORK,    )

Edwin A. Heard

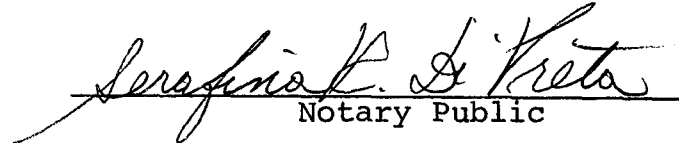
On this 1st day of May, 1977, before me personally appeared [REDACTED], to me personally known, who, being by me duly sworn, says that he is a Vice Chairman of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Serafina R. Di Preta  
Notary Public

SERAFINA R. DI PRETA  
Notary Public, State of New York  
No. 41-0967225 Queens County  
Cert. filed in New York County  
Term Expires March 30, 1979

STATE OF NEW YORK,     )  
                              )   ss.:  
COUNTY OF NEW YORK,    )

On this 1st day of May, 1977, before me personally appeared Dennis J. Brennan, to me personally known, who, being by me duly sworn, says that he is a Vice President of J. P. MORGAN INTERFUNDING CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation. .

  
Notary Public

SERAFINA R. DI PRETA  
Notary Public, State of New York  
No. 41-0967225 Queens County  
Cert. filed in New York County  
Term Expires March 30, 1979

## INTERIM CONSENT AND AGREEMENT

The undersigned, CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Interim Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to J. P. MORGAN INTERFUNDING CORP., a Delaware corporation (the "Vendor"), the assignee named in the Lease Assignment, in federal or other immediately available funds in New York City to the account of J. P. Morgan Interfunding Corp. at Morgan Guaranty Trust Company of New York (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

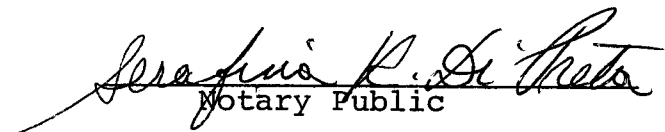
(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Interim Consent and Agreement or of any of the rights created by any thereof.

This Interim Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of

STATE OF NEW YORK,     )  
                              ) ss.:  
COUNTY OF NEW YORK,    )

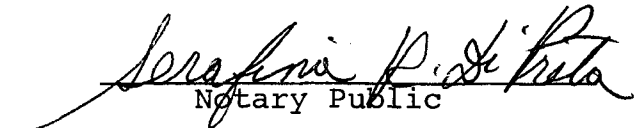
On this 1st day of May, 1977, before me personally appeared Richard T. Fox, to me personally known, who, being by me duly sworn, says that he is the Vice President & Treasurer of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

SERAFINA R. DI PRETA  
Notary Public, State of New York  
No. 41-0967225 Queens County  
Cert. filed in New York County  
Term Expires March 30, 1979

STATE OF NEW YORK     )  
                              )   ss.:  
COUNTY OF NEW YORK    )

On this 1st day of May, 1977, before me personally appeared Dennis J. Brennan, to me personally known, who, being by me duly sworn, says that he is Vice President of J. P. MORGAN INTERFUNDING CORP., that said instrument was signed on behalf of said corporation by due corporate authority and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

SERAFINA R. DI PRETA  
Notary Public, State of New York  
No. 41-0967225 Queens County  
Cert. filed in New York County  
Term Expires March 30, 1979